

**CALENDAR ITEM**

**C66**

A 23

02/20/15

PRC 7533.9

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R. Collins

**TERMINATION OF A PUBLIC AGENCY PERMIT AND RIGHT-OF-WAY MAP AND  
APPROVAL OF A PUBLIC AGENCY PERMIT AND RIGHT-OF-WAY MAP  
PURSUANT TO SECTION 101.5 OF THE STREETS AND HIGHWAYS CODE AND  
THE CALIFORNIA PUBLIC RESOURCES CODE SECTION 6210.3**

**APPLICANT:**

California Department of Transportation

**LAND TYPE AND LOCATION:**

Sovereign land in the Kings River, located near the city of Sanger, Fresno County.

**AUTHORIZED USE:**

Construction, use, and maintenance of a new 2-lane bridge adjacent to the existing 2-lane bridge across the Kings River along State Route 180.

**PERMIT TERM:**

Continuous use, plus one year, beginning February 20, 2015.

**CONSIDERATION:**

Reasonable value of the right-of-way to be deposited into the State Parks and Recreation fund.

**OTHER PERTINENT INFORMATION:**

1. The California Department of Transportation (Caltrans) owns or has the right to use the upland.
2. On May 1, 1991, the Commission authorized the issuance of a continuous Public Agency Permit and Right-of-Way Map to Caltrans to reconstruct the existing bridge located along State Route 180 at the Kings River.
3. Caltrans is now applying for the termination of the Public Agency Permit and Right-of-Way Map and the issuance of a new Public Agency Permit and Right-of-Way Map pursuant to Section 101.5 of the Streets and Highways Code for the construction of a new 2-lane bridge adjacent to the

CALENDAR ITEM NO. **C66** (CONT'D)

existing 2-lane bridge across the Kings River. State Route 180 will be converted from a 2-lane conventional highway to a 4-lane expressway. The new right-of-way will include the existing two-lane bridge and the proposed two-lane bridge.

4. Caltrans has filed maps showing the new right-of-way area with the Commission.
5. Section 101.5 of the Streets and Highways Code requires Caltrans to determine the reasonable value of the proposed right-of-way and to deposit such amount in the State Parks and Recreation Fund. In addition, Section 84.5 of the Streets and Highway Code requires Caltrans, when constructing a new bridge across a navigable river, to include full consideration and report on the feasibility of providing a means of public access to the river for public recreational purposes. Staff has received correspondence from Caltrans that they have determined after analysis of the bridge site that providing public access to the Kings River is not feasible at this location.
6. **Termination of Public Agency Permit and Right-of-Way Map:** The staff recommends that the Commission find that the subject Public Agency Permit and Right-of-Way Map termination does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

7. **Issuance of Public Agency Permit and Right-of-Way Map:** An Environmental Impact Report (EIR) and Supplemental EIR, State Clearinghouse No. 91022072, was prepared by Caltrans and certified on September 15, 2014, for this project. Commission staff has reviewed such document and Mitigation Monitoring Program prepared pursuant to the provisions of CEQA (Pub. Resources Code, § 21081.6) and adopted by the lead agency.

Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096) are contained in Exhibit D, attached hereto.

CALENDAR ITEM NO. **C66** (CONT'D)

8. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**APPROVALS OBTAINED:**

U.S. Fish & Wildlife Service

**FURTHER APPROVALS REQUIRED:**

California Department of Fish and Wildlife  
U.S. Army Corps of Engineers  
San Joaquin Valley Regional Water Quality Control Board  
California State Water Resources Control Board  
San Joaquin Valley Air Pollution Control District  
Central Valley Flood Protection Board

**EXHIBITS:**

- A. Site and Location Map
- B. Section 101.5 Right-of-Way Map
- C. Mitigation Monitoring Program
- D. Findings

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

**Termination of Public Agency Permit and Right-of-Way Map:** Find that the subject Public Agency Permit and Right-of-Way Map termination is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

**Issuance of Public Agency Permit and Right-of-Way Map:** Find that an EIR and Supplemental EIR, State Clearinghouse No. 91022072, was prepared by the California Department of Transportation and certified on September 15, 2014, and that Commission staff has reviewed and considered the information contained therein.

CALENDAR ITEM NO. **C66** (CONT'D)

Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

Adopt the Findings, made in conformance with California Code of Regulations, Title 14, sections 15091 and 15096, subdivision (h), as contained in Exhibit D, attached hereto.

Determine that the Project, as approved, will not have a significant effect on the environment.

**SIGNIFICANT LANDS INVENTORY FINDING:**

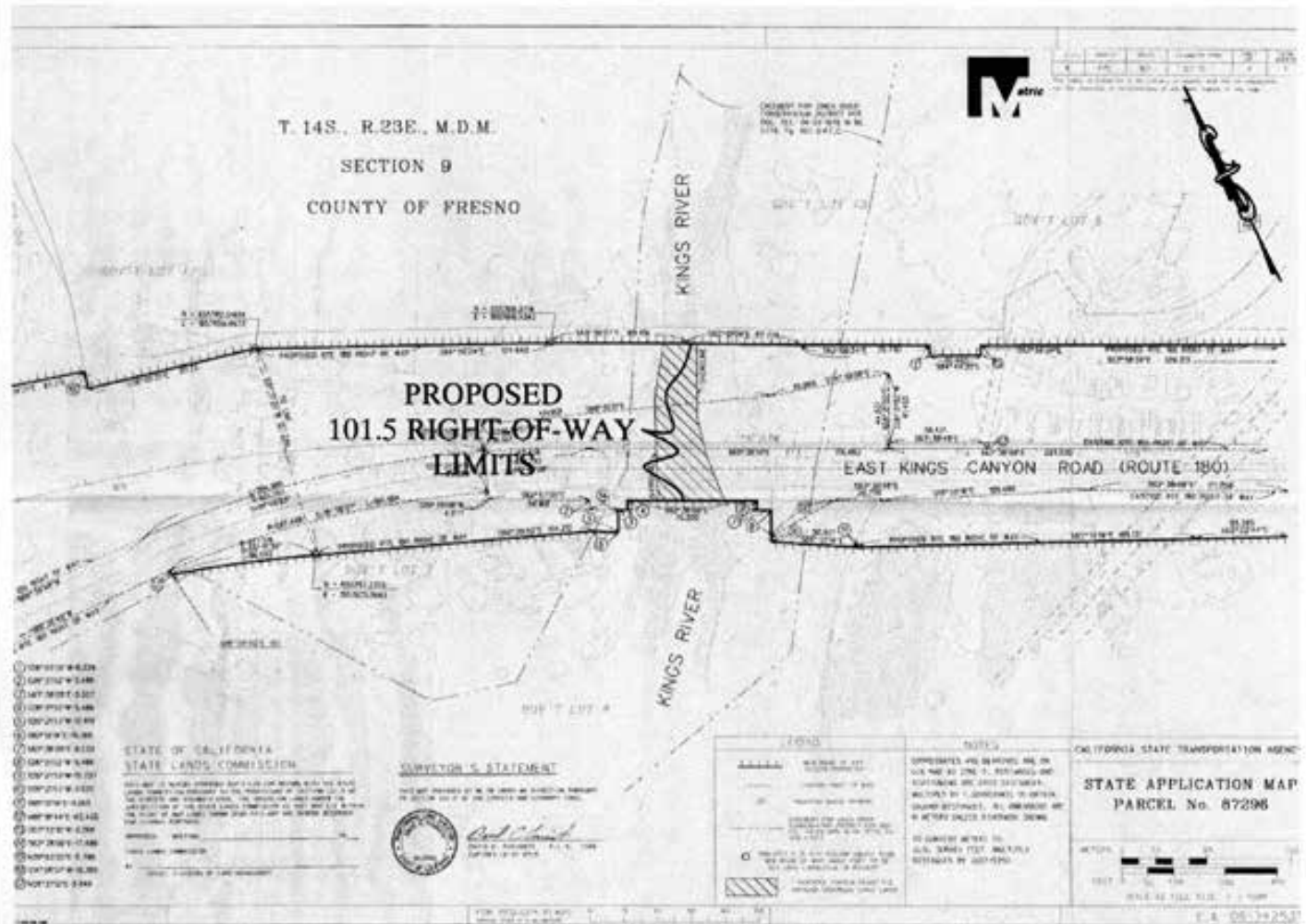
Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

**AUTHORIZATION:**

1. Authorize termination of Public Agency Permit and Right-of-Way Map PRC No. 7533.9, effective February 19, 2015.
2. Authorize a Public Agency Permit and approve a Right-of-Way Map as submitted by the California Department of Transportation pursuant to section 101.5 of the Streets and Highways Code and as authorized by section 6210.3 of the Public Resources Code, effective February 20, 2015, for continuous use plus one year, of a right-of-way for the continued use and maintenance of the existing two-lane Kings River Bridge and the construction, use, and maintenance of a new two-lane bridge over the Kings River, along State Route 180 near the city of Sanger, as shown on Exhibit A attached and by this reference made a part hereof.

NO SCALE

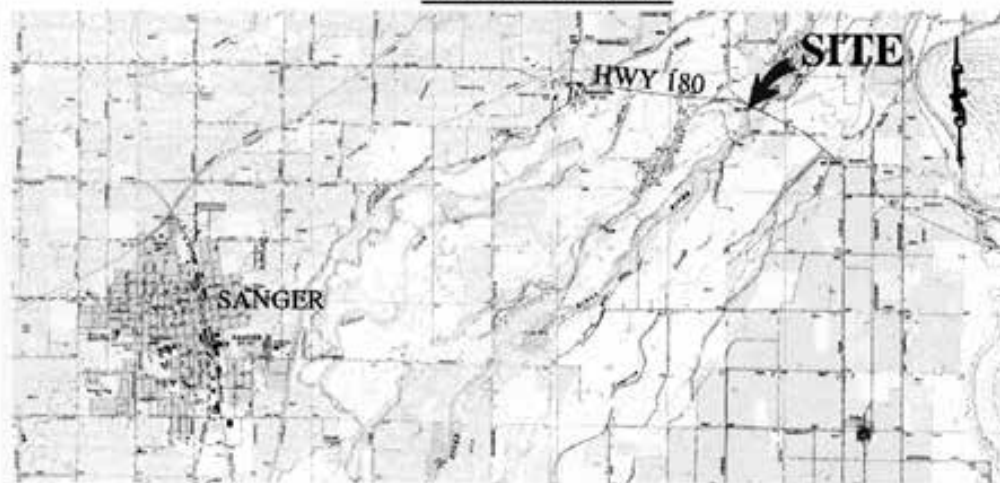
# SITE



East Kings Canyon Road (HWY 180) Bridge - near Sanger

NO SCALE

# LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

# **Exhibit A**

PRC 7533.9  
CALTRANS  
STREETS & HIGHWAY  
CODE SECTION 101.5  
FRESNO COUNTY



MJF 1/14/15



**EXHIBIT C**  
**CALIFORNIA STATE LANDS COMMISSION**  
**MITIGATION MONITORING PROGRAM**  
**KINGS CANYON EXPRESSWAY, SEGMENT 3**  
(State Clearinghouse No.91022072)

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The California State Lands Commission (Commission) is a responsible agency under the California Environmental Quality Act (CEQA) for the Kings Canyon Expressway, Segment 3 Project (Project). The CEQA lead agency for the Project is the California Department of Transportation (Caltrans).

In conjunction with approval of this Project, the Commission adopts this Mitigation Monitoring Program (MMP) for the implementation of mitigation measures for the portion(s) of the Project located on Commission lands. The purpose of a MMP is to discuss feasible measures to avoid or substantially reduce the significant environmental impacts from a project identified in an Environmental Impact Report (EIR) or a Mitigated Negative Declaration. State CEQA Guidelines section 15097, subdivision (a), states in part:<sup>1</sup>

*In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.*

The lead agency has adopted a MMP for the whole of the Project (see Exhibit C, Attachment C-1a and C-1b) and remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with its program. The Commission's action and authority as a responsible agency apply only to the mitigation measures listed in Table C-1 below.

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<sup>1</sup> The State CEQA Guidelines are found at California Code of Regulations, Title 14, section 15000 et seq.

**Table C-1. Project Impacts and Applicable Mitigation Measures.**

Potential Issue Area Impact	Mitigation Measure (MM) <sup>2</sup>	Difference Between CSLC MMP and Lead Agency MMP
<b>1995 Final EIR</b>		
<b>Impact GEO-1. Geology and Seismic Risk</b>	See p. 4-6 of Attachment C-1a	<b>MM GEO-1. Geotechnical Measures.</b> (A MM title was assigned)
<b>Impact HYD-1. Hydrology</b>	See p. 4-6 of Attachment C-1a	<b>MM HYD-1. Roadway Runoff Control.</b> (A MM title was assigned)
<b>Impact BIO-1. Biological Resources: Cliff Swallows</b>	See p. 4-6 of Attachment C-1a	<b>MM BIO-1. Cliff Swallow Nesting Avoidance Measure.</b> (A MM title was assigned)
<b>Impact VIS-1. Visual Quality</b>	See p. 4-7 of Attachment C-1a	<b>MM VIS-1. Visual Consistency of Bridge and Pier Design.</b> (A MM title was assigned)
<b>Impact CUL-1. Cultural Resources</b>	See p. 4-7 of Attachment C-1a	<b>CUL-1. Cultural Resource Mitigation.</b> (A MM title was assigned)
<b>2014 Supplemental EIR</b>		
<b>Impact REC-1. Recreation (Kings River)</b>	See p. 75 of Attachment C-1b	<b>MM REC-1. Public Notification.</b> (A MM title was assigned)
<b>Impact BIO-2. Natural Communities</b>	See p. 76 of Attachment C-1b	<b>MM BIO-2. Riparian Habitat Mitigation.</b> (A MM title was assigned)
<b>Impact BIO-3. Wetlands and Other Waters</b>	See p. 76 of Attachment C-1b	<b>MM BIO-3. Compensation for Loss of Wetlands and Waters of the U.S.</b> (A MM title was assigned)
<b>Impact BIO-4. Sensitive Plant Species</b>	See p. 77 of Attachment C-1b	<b>MM BIO-4. Sensitive Plant Species.</b> (A MM title was assigned)
<b>Impact BIO-5. Sensitive Bird Species</b>	See p. 77 of Attachment C-1b	<b>MM BIO-5. Sensitive Bird Species.</b> (A MM title was assigned)
<b>Impact BIO-6. Valley Elderberry Longhorn Beetle</b>	See p. 77 of Attachment C-1b	<b>MM BIO-6. Valley Elderberry Longhorn Beetle Mitigation.</b> (A MM title was assigned)

<sup>2</sup> See Attachment C-1a (1995 Final EIR) and C-1b (2014 Supplemental EIR) for the full text of each MM taken from the MMP prepared by the CEQA lead agency.



**ATTACHMENT C-1a**

**Mitigation Monitoring Program from the 1995 Final EIR**

**Adopted by the**

**California Department of Transportation**

TABLE 4-2  
PROPOSED MITIGATION  
(Page 1 of 2)

Issue Area		Mitigation Measures	Agency Responsible for Mitigation
GEO-1	Geology	1) Geotechnical investigation to develop design criteria; 2) Compaction of fill to 90% or greater; 3) Slope inclination no greater than 2:1; 4) Erosion control plan for construction	Caltrans
	Seismic Risk	Geotechnical investigation to develop seismic design criteria for structures	Caltrans
HYD-1	Hydrology	1) Runoff collection and retention system for roadway runoff; 2) Culverts to provide cross-road drainage; 3) Coordination of construction with irrigation water delivery schedules	Caltrans
	Water Quality	Refer to Hydrology mitigation	Caltrans
	Air Quality	1) Watering working surfaces during construction; 2) Application of chemical dust suppressants during construction when watering is inadequate; 3) Limiting cleared areas during construction; 4) Limiting speed limits on unpaved roads during construction	Caltrans
	Hazardous Waste	1) Private property - negotiate cleanup with land owner; 2) Public property - prepare RI/FS and implement Hazardous Waste Management Plan	Caltrans
	Energy	1) Maintenance of construction equipment; 2) Coordination of construction equipment use to minimize operating hours	Caltrans
BIO-1	Biological Resources	1) Replacement of freshwater marsh in kind; 2) Replacement of riparian woodland in kind with riparian tree replacement at a ratio of 3:1; 3) Transplant elderberry plants affected by project and additional elderberry planting at 3:1 ratio; 4) Avoid construction around existing structures during cliff swallow nesting period	Caltrans

**TABLE 4-2**  
**PROPOSED MITIGATION**  
(Page 2 of 2)

Issue Area	Mitigation Measures	Agency Responsible for Mitigation
Relocation	Relocation assistance under Public Law 91-646, the California Real Property Acquisition Act of 1970, and the federal Fair Housing Law. In addition to payment of fair market value for displaced property, relocation assistance may include rental of acquired property,	Caltrans
Farmland	1) Relocation assistance as discussed under Relocation; 2) Compensation for any reorganization of farm operations due to parcel splitting; 3) Provide access to land locked property 4) Sale of remnant parcels to adjoining farm operators	Caltrans
Visual Quality	1) Replacement planting within the right of way between the western terminus of the project and Temperance Avenue; 2) Bridge and pier designs visually consistent with remainder of Route 180	Caltrans
Noise	Noise barrier in vicinity of Annenian Home near Temperance Avenue (to be constructed as part of the Route 180 urban project to the west)	Caltrans
Cultural Resources	1) Protection of resources whose primary value is associated with preservation in place; 2) Data recovery of resources whose primary value is scientific information	Caltrans
Energy	1) Project designed to allow travel at the speed limit under stable flow conditions; 2) Proper maintenance of construction equipment; 3) Coordination of construction equipment use to minimize operating hours	Caltrans

**ATTACHMENT C-1b**

**Mitigation Monitoring Program from the 2014 Supplemental EIR**

**Adopted by the**

**California Department of Transportation**

## **Appendix B Summary of New Avoidance, Minimization and Mitigation Measures**

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Only the new avoidance, minimization, and mitigation measures discussed in this document are summarized in this appendix. Other measures that remain valid for the project are included in the 1995 Environmental Impact Report/Environmental Impact Statement.

### ***Park and Recreation Facilities***

Thorburn Park — To minimize impacts during construction, any constructions activities would be coordinated with the jurisdictional agency, Fresno County, to avoid interruption to park patrons.

Pierce's Park Campground, Whispering Waters Recreation Park, and Kamperground of America — To minimize impacts during construction, any constructions activities would be coordinated with the park or campground to avoid the temporary disruption to patrons as much as possible.

Kings River — Construction of the bridge across the Kings River would be conducted during low water levels as much as possible. Efforts to notify the public about temporary closure to water activities at the river during construction would be made through local news releases and public notification.

### ***Relocations and Real Property Acquisition***

All displacees will be contacted by a Relocation Agent, who will ensure that eligible displacees receive their full relocation benefits, including advisory assistance, and that all activities will be conducted in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Relocation resources shall be available to all displacees free of discrimination. At the time of the first written offer to purchase, owner occupants are given a detailed explanation of Caltrans' "Relocation Program and Services." Tenant occupants of properties to be acquired are contacted soon after the first written offer to purchase and are given a detailed explanation of Caltrans' "Relocation Program and Services." In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, Caltrans will

REC-1

## Attachment C-1b

### 2014 Supplemental EIR MMP

#### Appendix B • Summary of New Minimization and Mitigation Measures

provide relocation advisory assistance to any person, business, farm or nonprofit organization displaced as a result of the acquisition of real property for public use.

#### *Utilities and Emergency Services*

**Utilities** — Caltrans has been consulting with PG&E to minimize the temporary disruption of services as much as possible.

**Emergency Services** — A Traffic Management Plan would be developed to handle local traffic patterns and reduce delays for emergency response vehicles during construction.

#### *Traffic and Transportation/Pedestrian and Bicycle Facilities*

**Traffic and Transportation** — A Traffic Management Plan would be developed to handle local traffic patterns and reduce delays, congestion, and the likelihood of accidents during construction. The Traffic Management Plan includes notifying the public of construction activities via media outlets, using changeable message signs, using construction strategies, and using the Central Valley Traffic Management Center, which reduces congestion by monitoring traffic and informing the public via media outlets such as radio and television.

#### *Natural Communities*

**Valley Oak Woodland** — To mitigate for the loss of 49.21 acres of oak woodland, Caltrans will preserve 98.42 acres of existing oak woodlands by purchasing an offsite conservation easement of intact habitat equivalent to the affected oak woodland. The acreage preserved was established at a 2:1 ratio (2 acres preserved for 1 acre removed).

**Riparian Habitat** — For the loss of riparian habitat, the required compensatory mitigation includes replanting native oaks and riparian trees at a 3:1 ratio (replanting 3 trees for every 1 tree lost) for trees between 4-23 inches in diameter at breast height. Trees that are 24 inches or more in diameter at breast height are defined as heritage trees and require replanting at a 10:1 ratio (replanting 10 trees for every 1 heritage tree lost). Caltrans proposes to compensate for the loss of native trees at an offsite location within the Kings River watershed.

#### *Wetlands and Other Waters*

Caltrans proposes to compensate for permanent impacts to wetlands and Waters of the U.S. by way of paying in-lieu fees or creating and restoring existing wetlands at an offsite location, such as Bennett-Fit Wetlands Forever, near Helm in Fresno County.

BIO-2

BIO-3

## Attachment C-1b 2014 Supplemental EIR MMP

### Appendix B • Summary of New Minimization and Mitigation Measures

#### *Plant Species*

BIO-4

California Native Plant Society-listed plants have the potential to occur within the project area. Botanical surveys will be conducted in the blooming season before construction is scheduled to begin to minimize potential impacts to any California Native Plant Society-listed plants. If a California Native Plant Society-listed plant is found in the project area, 4 inches of topsoil from the area where the plant is found will be collected and stored until construction is complete. At that time, the topsoil will be restored to the temporarily disturbed area. With the above-mentioned avoidance and minimization measures, there will be no impacts to the forked hare-leaf (*Lagophylla dichotoma*).

To minimize potential impacts for the federally listed San Joaquin adobe sunburst (*Pseudobahia Peirsonii*), pre-construction surveys would be conducted at the appropriate blooming period (March and April) prior to the beginning of construction activities.

#### *Animal Species*

BIO-5

To minimize potential impacts to the tricolored blackbird, pre-construction surveys would be conducted within the biological study area. In addition, a standard special provision for migratory bird protection would be included in the construction contract to minimize impacts to the special-status species.

The Federal Migratory Bird Treaty Act protects most North American migratory birds, nests, and eggs. It is preferable that tree removal occur outside of the nesting season (February 15-September 1). If tree removal is not conducted during this time, a qualified biologist must survey all trees and shrubs to be removed for active bird nests prior to removing the trees.

#### *Threatened and Endangered Species*

BIO-6

Valley elderberry longhorn beetle [if transplanting is required by U.S. Fish and Wildlife Service (USFWS)] — The 104 elderberry shrubs that are within the project impact area would be relocated to French Camp Conservation Bank, a USFWS-approved mitigation bank for the valley elderberry longhorn beetle. In addition, if mitigation is required by the USFWS, Caltrans will purchase conservation credits at French Camp Conservation Bank.

BIO-5

Swainson's hawk — The Federal Migratory Bird Treaty Act protects most North American migratory birds, nests, and eggs. It is preferable that tree removal occur outside of the nesting season (February 15-September 1). If tree removal is not conducted during this time, a qualified biologist must survey all trees and shrubs to be removed for active bird nests prior to the tree removal.

## EXHIBIT D – KINGS CANYON EXPRESSWAY, SEGMENT 3

### CALIFORNIA STATE LANDS COMMISSION STATEMENT OF FINDINGS

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#### 1.0 INTRODUCTION

The California State Lands Commission (CSLC), acting as a responsible agency under the California Environmental Quality Act (CEQA), makes these findings to comply with CEQA as part of its discretionary approval to authorize issuance of a Public Agency Permit and Right-of-Way Map pursuant to Section 101.5 of the Streets and Highways Code, to the California Department of Transportation (Caltrans), for use of sovereign lands associated with the proposed Kings Canyon Expressway, Segment 3 (Project). (See generally Pub. Resources Code, § 21069; State CEQA Guidelines, § 15381.)<sup>1</sup> The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The CSLC also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. (Pub. Resources Code, §§ 6301, 6306.) All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the Common Law Public Trust.

The CSLC is a responsible agency under CEQA for the Project because the CSLC must amend a lease for the Project to go forward and because Caltrans, as the CEQA lead agency, has the principal responsibility for approving the Project and has completed its environmental review under CEQA. Caltrans analyzed the environmental impacts associated with the Project in a Final Environmental Impact Report (EIR) in 1995 (State Clearinghouse [SCH] No. 91022072) and through a 2014 Supplemental EIR and, in September 2014, approved the Supplemental EIR and adopted a Mitigation Monitoring and Reporting Program (MMRP) and Findings.

The Project involves realignment and widening of a 4.5-mile segment of State Route 180 near the rural communities of Centerville and Minkler in eastern Fresno County. The Project begins at 0.7 mile west of Smith Avenue and ends 0.7 mile east of Frankwood Avenue and will connect with the previously constructed Kings Canyon Expressway Segment 2 west of Smith Avenue. The new alignment will widen the existing two-lane conventional highway to a four-lane divided expressway. The Project will require the acquisition of new right-of-way and the abandonment of some existing State Route 180 right-of-way. A new bridge crossing will be constructed over the Kings River. The CSLC lease area is limited to just the Kings River area of the Project area.

Caltrans determined that the Project could have significant environmental effects on the following environmental resources:

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<sup>1</sup> CEQA is codified in Public Resources Code section 21000 et seq. The State CEQA Guidelines are found in California Code of Regulations, Title 14, section 15000 et seq.



- Aesthetics
- Agriculture
- Air Quality
- Greenhouse Gas Emissions
- Biological Resources
- Cultural Resources
- Energy
- Geology
- Hazardous Waste
- Hydrology and Water Quality
- Land Use
- Noise
- Recreation
- Transportation and Traffic
- Utilities and Service Systems
- Mandatory Findings of Significance

Of the 15 resource areas noted above, Project components within the CSLC's jurisdiction (i.e., Kings River) could have significant environmental effects on six of the resource areas, as follows:

- Aesthetics
- Biological Resources
- Cultural Resources
- Geology
- Hydrology and Water Quality
- Recreation

In certifying the 1995 Final EIR, 2014 Supplemental EIR, and approving the Project, Caltrans imposed various mitigation measures for Project-related significant effects on the environment as conditions of Project approval and concluded that Project-related impacts would be substantially lessened with implementation of these mitigation measures such that the impacts would be less than significant for most resource areas.

As a responsible agency, the CSLC complies with CEQA by considering the EIR and reaching its own conclusions on whether, how, and with what conditions to approve a project. In doing so, the CSLC may require changes in a project to lessen or avoid the effects, either direct or indirect, of that part of the project which the CSLC will be called on to carry out or approve. In order to ensure the identified mitigation measures and/or Project revisions are implemented, the CSLC adopts the Mitigation Monitoring Program (MMP) as set forth in Exhibit C as part of its Project approval.

## **2.0 FINDINGS**

The CSLC's role as a responsible agency affects the scope of, but not the obligation to adopt, findings required by CEQA. Findings are required under CEQA by each "public

agency" that approves a project for which an EIR has been certified that identifies one or more significant impacts on the environment (Pub. Resources Code, § 21081, subd. (a); State CEQA Guidelines, § 15091, subd. (a).) Because the 1995 Final EIR certified by Caltrans and the 2014 Supplemental EIR for the Project identify potentially significant impacts that fall within the scope of the CSLC's approval, the CSLC makes the Findings set forth below as a responsible agency under CEQA. (State CEQA Guidelines, § 15096, subd. (h); *Resource Defense Fund v. Local Agency Formation Comm. of Santa Cruz County* (1987) 191 Cal.App.3d 886, 896-898.)

While the CSLC must consider the environmental impacts of the Project as set forth in the 1995 Final EIR and 2014 Supplemental EIR, the CSLC's obligation to mitigate or avoid the direct or indirect environmental impacts of the Project is limited to those parts which it decides to carry out, finance, or approve (Pub. Resources Code, § 21002.1, subd. (d); State CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because the CSLC's exercise of discretion involves only a Public Agency Permit and Right-of-Way Map pursuant to Section 101.5 of the Streets and Highways Code for this Project, the CSLC is responsible for considering only the environmental impacts related to lands or resources subject to the CSLC's jurisdiction. With respect to all other impacts associated with implementation of the Project, the CSLC is bound by the legal presumption that the 1995 Final EIR and 2014 Supplemental EIR fully comply with CEQA.

The CSLC has reviewed and considered the information contained in the 1995 Final EIR and 2014 Supplemental EIR. All significant adverse impacts of the Project identified in the 1995 Final EIR and 2014 Supplemental EIR relating to the CSLC's approval of a lease amendment, which would allow the proposed construction activities over the Kings River, are included herein and organized according to the resource affected.

These Findings, which reflect the independent judgment of the CSLC, are intended to comply with CEQA's mandate that no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects unless the agency makes written findings for each of those significant effects. Possible findings on each significant effect are:

- (1) Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effect as identified in the 1995 Final EIR and 2014 Supplemental EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the CSLC. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.<sup>2</sup>

<sup>2</sup> See Public Resources Code section 21081, subdivision (a) and State CEQA Guidelines section 15091, subdivision (a).

A discussion of supporting facts follows each Finding.

- Whenever Finding (1) occurs, the mitigation measures that lessen the significant environmental impact are identified in the facts supporting the Finding.
- Whenever Finding (2) occurs, the agencies with jurisdiction are specified. These agencies, within their respective spheres of influence, have the responsibility to adopt, implement, and enforce the mitigation discussed.

These Findings are based on the information contained in the 1995 Final EIR and 2014 Supplemental EIR and information submitted by the Applicant, all of which is contained in the administrative record. The mitigation measures are briefly described in these Findings; more detail on the mitigation measures is included in the 1995 Final EIR and 2014 Supplemental EIR.

The CSLC is the custodian of the record of proceedings upon which its decision is based. The location of the CSLC's record of proceedings is in the Sacramento office of the CSLC, 100 Howe Avenue, Suite 100-South, Sacramento, CA 95825.

## **A. SUMMARY OF FINDINGS**

Based on public scoping, the proposed Project will have No Impact on the following environmental issue areas:

- Mineral Resources

The 1995 Final EIR and 2014 Supplemental EIR subsequently identified the following impacts as Less Than Significant:

- Public Services
- Population and Housing

For the remaining potentially significant effects, the Findings are organized by significant impacts within the 1995 Final EIR and 2014 Supplemental EIR issue areas as presented below.

## **B. IMPACTS REDUCED TO LESS THAN SIGNIFICANT LEVELS WITH MITIGATION**

The impacts identified below were determined in the 1995 Final EIR and 2014 Supplemental EIR to be potentially significant absent mitigation; after application of mitigation, however, the impacts were determined to be less than significant. For the full text of each mitigation measure (MM), please refer to Exhibit C, Attachment C-1a and C-1b.

Issue Area	Impacts
1. Biological Resources	BIO-1, BIO-2, BIO-3, BIO-4, BIO-5, BIO-6
2. Visual Quality	VIS-1
3. Hydrology	HYD-1
4. Geology	GEO-1
5. Recreation (Kings River)	REC-1
6. Cultural Resources	CUL-1

### 1. Biological Resources

#### CEQA FINDING NO. BIO-1

Impact: **Impact BIO-1. Biological Resources: Cliff Swallows.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effects as identified in the 1995 Final EIR.

#### FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in an impact to cliff swallows. Specifically, construction access and bridge construction within the Kings River has potential to cause this impact.

Implementation of MM BIO-1 has been incorporated into the Project to reduce this impact to a less than significant level.

#### **MM BIO-1: Cliff Swallow Nesting Avoidance Measure.**

Avoid construction around existing structures during cliff swallow nesting period.

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, this impact is reduced to a less than significant level.

#### CEQA FINDING NO. BIO-2

Impact: **Impact BIO-2. Natural Communities.**

Finding(s): (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effects as identified in the 2014 Supplemental EIR.

#### FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to impact riparian habitats. Specifically, construction access and bridge construction within the Kings River have potential to cause this impact.

Implementation of MM BIO-2 has been incorporated into the Project to reduce this impact to a less than significant level.

**MM BIO-2: Riparian Habitat Mitigation.**

For the loss of riparian habitat, the required compensatory mitigation includes replanting native oaks and riparian trees at a 3:1 ratio (replanting 3 trees for every 1 tree lost) for trees between 4-23 inches in diameter at breast height. Trees that are 24 inches or more in diameter at breast height are defined as heritage trees and require replanting at a 10:1 ratio (replanting 10 trees for every 1 heritage tree lost). Caltrans proposes to compensate for the loss of native trees at an offsite location within the Kings River watershed.

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. BIO-3**

**Impact:** Impact BIO-3. Wetlands and Other Waters.

**Finding(s):** (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effects as identified in the 2014 Supplemental EIR.

**FACTS SUPPORTING THE FINDING(S)**

Activities proposed as part of the Project have the potential to impact wetlands and Waters of the U.S. Specifically, construction access and bridge construction within the Kings River have potential to cause these impacts.

Implementation of MM BIO-3 has been incorporated into the Project to reduce this impact to a less than significant level.

**MM BIO-3: Compensation for Loss of Wetlands and Waters of the U.S.**

Caltrans shall compensate for permanent impacts to wetlands and Waters of the U.S. by paying in-lieu fees and/or creating and restoring existing wetlands at an offsite location, such as Bennett-Fit Wetlands Forever, near Helm in Fresno County.

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. BIO-4**

**Impact:**      **Impact BIO-4. Sensitive Plant Species.**

**Finding(s):** (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effects as identified in the 2014 Supplemental EIR.

**FACTS SUPPORTING THE FINDING(S)**

Activities proposed as part of the Project have the potential to impact sensitive plant species. Specifically, construction access and bridge construction within the Kings River have potential to cause this impact.

Implementation of MM BIO-4 has been incorporated into the Project to reduce this impact to a less than significant level.

**MM BIO-4: Protection of Sensitive Plant Species.**

California Native Plant Society-listed plants have the potential to occur within the project area. Botanical surveys shall be conducted in the blooming season before construction is scheduled to begin to minimize potential impacts to any California Native Plant Society-listed plants. If a California Native Plant Society-listed plant is identified within the project area, four (4) inches of topsoil from the area where the plant is found shall be collected and stored until construction is complete. Upon completion of construction, the topsoil shall be returned and restored to the temporarily disturbed area. With the above-mentioned avoidance and minimization measures, there will be no impacts to the forked hare-leaf (*Lagophylla dichotoma*).

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. BIO-5**

**Impact:**      **Impact BIO-5. Sensitive Bird Species.**

**Finding(s):** (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effects as identified in the 2014 Supplemental EIR.

**FACTS SUPPORTING THE FINDING(S)**

Activities proposed as part of the Project have the potential to impact sensitive bird species. Specifically, construction access and bridge construction within the Kings River have potential to cause this impact.

Implementation of MM BIO-5 has been incorporated into the Project to reduce this impact to a less than significant level.

**MM BIO-5: Sensitive Bird Species.**

To minimize potential impacts to the tricolored blackbird, pre-construction surveys shall be conducted within the biological study area. In addition, a standard special provision for migratory bird protection shall be included in the construction contract to minimize impacts to the special-status species.

The Federal Migratory Bird Treaty Act protects most North American migratory birds, nests, and eggs. It is preferable that tree removal occur outside of the nesting season (February 15-September 1). If tree removal is not conducted during this time, then a qualified biologist shall survey all trees and shrubs to be removed for active bird nests prior to removing the trees. **LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, this impact is reduced to a less than significant level.

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, this impact is reduced to a less than significant level.

**CEQA FINDING NO. BIO-6**

**Impact:** Impact BIO-6, Valley Elderberry Longhorn Beetle.

**Finding(s):** (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effects as identified in the 2014 Supplemental EIR.

**FACTS SUPPORTING THE FINDING(S)**

Activities proposed as part of the Project have the potential to impact the Valley elderberry longhorn beetle. Specifically, construction access and bridge construction within the Kings River have potential to cause this impact.

Implementation of MM BIO-6 has been incorporated into the Project to reduce this impact to a less than significant level.

**MM BIO-6: Valley Elderberry Longhorn Beetle Mitigation.**

If transplanting is required by U.S. Fish and Wildlife Service (USFWS), the 104 elderberry shrubs located within the project impact area shall be relocated to French Camp Conservation Bank, a USFWS-approved mitigation bank for the valley elderberry longhorn beetle. In addition, if mitigation is required by the USFWS, Caltrans will purchase conservation credits at French Camp Conservation Bank.

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, this impact is reduced to a less than significant level.

## 2. Visual Quality

### **CEQA FINDING NO. VIS-1**

**Impact:** Impact VIS-1. Visual Quality.

**Finding(s):** (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effects as identified in the 1995 Final EIR.

#### **FACTS SUPPORTING THE FINDING(S)**

Activities proposed as part of the Project have the potential to result in a visual impact to the State Route 180 corridor proposed for construction, including the visual presence of State Route 180 across the Kings River. Specifically, construction access, bridge construction, and the long-term visual presence of the new bridge within the Kings River have potential to cause this impact.

Implementation of MM VIS-1 has been incorporated into the Project to reduce this impact to a less than significant level.

#### **MM VIS-1: Visual Consistency of Bridge and Pier Design.**

Bridge and pier designs shall be visually consistent with the remainder of State Route 180 corridor.

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, this impact is reduced to a less than significant level.

## 3. Hydrology

### **CEQA FINDING NO. HYD-1**

**Impact:** Impact HYD-1. Hydrology.

**Finding(s):** (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effects as identified in the 1995 Final EIR.

#### **FACTS SUPPORTING THE FINDING(S)**

Activities proposed as part of the Project have the potential to result in hydrology and water quality impacts pertaining to stormwater runoff and installation of culverts to convey stormwater. Specifically, construction access and bridge construction within the



Kings River and long-term maintenance of stormwater management structures have potential to cause these impacts.

Implementation of MM HYD-1 has been incorporated into the Project to reduce these impacts to a less than significant level.

#### **MM HYD-1: Roadway Runoff Control.**

Runoff collection and retention system for roadway runoff.

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, these impacts are reduced to a less than significant level.

### **4. Geology and Seismic Risk**

#### **CEQA FINDING NO. GEO-1**

**Impact:** Impact GEO-1. Geology and Seismic Risk.

**Finding(s):** (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effects as identified in the 1995 Final EIR.

#### **FACTS SUPPORTING THE FINDING(S)**

Activities proposed as part of the Project have the potential to subject people, structures, and water resources to potential hazards associated with geologic instability and seismic activity. Specifically, construction access, bridge construction, and grading activities within and adjacent to the Kings River, and long-term maintenance of the new bridge and stormwater management structures have potential to cause these impacts.

Implementation of MM GEO-1 has been incorporated into the Project to reduce these impacts to a less than significant level.

#### **MM GEO-1: Geotechnical Measures.**

Geotechnical investigation to develop design criteria;

Compaction of fill to 90% or greater; and

Slope inclination no greater than 2:1; and

Erosion control plan for all construction activities.

Geotechnical investigation to develop seismic design criteria for structures.

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, these impacts are reduced to a less than significant level.

## 5. Recreation

### CEQA FINDING NO. REC-1

**Impact:** Impact REC-1. Recreation (Kings River).

**Finding(s):** (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effects as identified in the 2014 Supplemental EIR.

#### FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to result in temporary closure of recreation activities within and along the Kings River. Specifically, construction access and bridge construction within the Kings River have potential to cause this impact.

Implementation of MM REC-1 has been incorporated into the Project to reduce this impact to a less than significant level.

#### MM REC-1: Public Notification.

Construction of the bridge across the Kings River would be conducted during low water levels as much as possible. Efforts to notify the public about temporary closure to water activities at the river during construction would be made through local news releases and public notification.

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, this impact is reduced to a less than significant level.

## 6. Cultural Resources

### CEQA FINDING NO. CUL-1

**Impact:** Impact CUL-1, Cultural Resources.

**Finding(s):** (1) Changes or alterations have been required in, or incorporated into, the project that mitigate or avoid the significant environmental effects as identified in the 1995 Final EIR.

#### FACTS SUPPORTING THE FINDING(S)

Activities proposed as part of the Project have the potential to affect unknown cultural resources. Specifically, construction access and bridge construction within the Kings River have potential to cause this impact.

Implementation of MM CUL-1 has been incorporated into the Project to reduce this impact to a less than significant level.

**MM CR-1: Cultural Resources Mitigation.**

Protection of resources whose primary value is associated with preservation in place; and

Data recovery of resources whose primary value is scientific information.

**LEVEL OF SIGNIFICANCE AFTER MITIGATION.** With the mitigation described above, this impact is reduced to a less than significant level.